

### III. REMARKS

Claims 1-33 are pending in this application. By this amendment, claims 1, 6, 10, 13, 15-20, 23, 28, 29 and 32 have been amended. Applicants do not acquiesce in the correctness of the rejections and reserve the right to present specific arguments regarding any rejected claims not specifically addressed. Further, Applicants reserve the right to pursue the full scope of the subject matter of the original claims in a subsequent patent application that claims priority to the instant application. Reconsideration in view of the following remarks is respectfully requested.

In the Office Action, claims 1-14 and 23-31 are rejected under 35 U.S.C. §101 as allegedly being directed to non-statutory subject matter. Claims 15-22 are rejected under 35 U.S.C. §112 as allegedly being indefinite. Claims 1, 3-6, 11-13, 15, 17-20, 21, 23, 25, 26 and 28-30 are rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Guinta *et al.* (U.S. Patent No. 6,161,101), hereafter "Guinta." Claims 2, 7-10, 14, 16, 22, 24, 27 and 31-33 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Guinta in view of Curtis, Bill; Hefley, William E.; Miller, Sally; "People Capability Maturity Model<sup>SM</sup>"; Sept 1995, Software Engineering Institute, CMU/SEI-95-MM-02, sections O, L1-L4, hereafter "Curtis."

#### A. REJECTION OF CLAIMS 1-14 AND 23-31 UNDER 35 U.S.C. §101

The Office has rejected claims 1-14 and 23-31 for allegedly being directed to non-statutory subject matter. Applicants respectfully traverse the rejection. Applicants have amended claims 1 and 10 to recite, "a computer implemented method." Claims 2-9 and 11-14 depend from claims 1 and 10, respectively. Furthermore, Applicants have amended claim 23 to recite, "a computer implemented system." Claims 24-31 depend from claim 23. Applicants

assert that these amendments further direct the invention to statutory subject matter.

Accordingly, Applicants request that the rejection be withdrawn.

#### **B. REJECTION OF CLAIMS 15-22 UNDER 35 U.S.C. §112**

The Office has asserted that claims 15-22 are indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Office asserts that the preamble of the claim describes a software product while the body of the claim describes system elements. Applicants have amended the bodies of claims 15-20 to replace references to "a system" with "a program code configured to." Claims 21 and 22 depend from claims 20 and 15, respectively. Applicants assert that these amendments further clarify the invention. Accordingly, Applicants request that the rejection be withdrawn.

#### **C. REJECTION OF CLAIMS 1, 3-6, 11-13, 15, 17-20, 21, 23, 25, 26 AND 28-30 UNDER 35 U.S.C. §102(e)**

With regard to the 35 U.S.C. §102(e) rejection over Guinta, Applicants asserts that Guinta does not teach each and every feature of the claimed invention. For example, with respect to independent claims 1, 15 and 23, Applicants submit that Guinta fails to teach performing the querying, quantifying, modifying and comparing steps prior to implementing the technical change in the organization. Instead, Guinta teaches that its invention "...is particularly suited for use in connection with methods and apparatus for assessing an organization process or system." Col. 2, lines 47-49. To this extent, the Guinta invention is used to assess an existing organization process or system and, as such, Guinta does not teach that the functions thereof are performed prior to implementing a technical change in the organization. Furthermore, nowhere does Guinta

even disclose contemplation of a technical change (e.g., implementation of a new software application, installation of new hardware, etc). In contrast, the claimed invention includes "...prior to implementing the technical change in the organization." Claim 1. As such, in contrast to Guinta, the querying, quantifying, modifying and comparing steps of the claimed invention (or at least the querying step) are performed prior to implementing the technical change in the organization. Thus, Guinta does not teach each and every feature of the claimed invention. Accordingly, Applicants respectfully request that the Office withdraw its rejection.

With further respect to independent claims 1, 15 and 23, Applicants respectfully submit that Guinta also fails to teach modifying the raw score using at least one modifier that relates to a response to change to yield a skill score. The passage of Guinta cited by the Office teaches that "[t]he numerical input shown in FIG. 4 may be modified based on a wide variety of factors preferred by the apparatus designers." Col. 9, lines 44-49. However, Guinta teaches that the modifying and filtering illustrated in FIG. 4 has the purpose of "...inhibiting validation/collection of exaggerated, untrue, and/or unsupported numerical inputs." Col. 9, lines 40-41. In any case, nowhere does Guinta teach that its numerical input is modified using a modifier that relates to a response to change. The claimed invention, in contrast, includes "...modifying the raw score using at least one modifier that relates to a response to change to yield a skill score." Claim 1. As such, the modifying of the claimed invention is not merely intended to inhibit validation/collection of exaggerated, untrue, and/or unsupported numerical inputs as does the modification and filtering of Guinta, but rather uses at least one modifier that relates to a response to change. For the above reasons, the modification of numerical input of

Guinta does not teach the modification step of the claimed invention. Accordingly, Applicants request that the rejection be withdrawn.

With still further respect to independent claim 1 and with respect to claim 17, Applicants respectfully submit that Guinta also fails to teach quantifying the baseline response into a raw score by assigning a value to each baseline response. The Office equates the quantifying of the claimed invention with the filtering of Guinta. Office Action, page 6. However, as stated above the intent of the filtering of Guinta is "...inhibiting validation/collection of exaggerated, untrue, and/or unsupported numerical inputs." Col. 9, lines 40-41. To this extent, the filtering of Guinta does not teach that its filtering quantifies by assigning a value to each baseline response. The Office then attempts to equate the conversion of inputted responses of the claimed invention with a sliding scale for data input of Guinta. Col. 5, lines 42-46. However, the sliding scale of Guinta is merely a control to facilitate input of numerical data by a user. Furthermore, the sliding scale of Guinta is not used by its filtering. In contrast, the claimed invention includes "...quantifying the baseline response into a raw score by assigning a value to each baseline response." Claim 1. As such, the assigning of a value to each baseline response of the claimed invention is not separate from the quantifying step as is the filtering of Guinta. Still yet, the assigning of a value of the claimed invention is not merely a control to aid the use in providing an input, but instead is used to quantify the baseline response into a raw score. For the above reasons, the quantifying of the baseline response of the claimed invention is not taught by the unrelated filtering and sliding scale of Guinta. Accordingly, Applicants request that the rejection be withdrawn.

With respect to claims 6, 13, 20 and 29, Applicants respectfully submit that Guinta also fails to teach that each query comprises a set of questions, with each question in the set of

questions in a yes/no/sometimes format. Instead, Guinta teaches that its first input may be in a conditional response format. Col. 5, lines 1-10. This conditional response format may include a numerical input selected from a scale (col. 5, lines 33-38) true/false, yes/no, a numerical input, a textual input, and selection from a list (col. 5, line 61 through col. 6, line 2). However, nowhere to Guinta teach that each question is in a yes/no/sometimes format. In contrast, the claimed invention includes "...wherein each query comprises a set of questions, with each question in the set of questions in a yes/no/sometimes format." Claim 6. As such, the set of questions of the claimed invention are not in a variety of formats as in Guinta, but instead each question in the set of questions is in a yes/no/sometimes format. For the above reasons, the set of questions of the claimed invention is not taught by first input of Guinta. Accordingly, Applicants request that the rejection be withdrawn.

With respect to claims 18 and 28, Applicants respectfully submit that Guinta also fails to teach that the modifier comprises at least one of a stiffness modifier that relates to how a particular type of organization traditionally responds to change and an individual modifier that relates to how a particular individual traditionally responds to change. Instead, the passage of Guinta cited by the Office teaches that its numerical input can be modified using a wide variety of factors. Col. 9, lines 44-46. However, nowhere does Guinta teach that these factors include a stiffness modifier that relates to how a particular type of organization traditionally responds to change and/or an individual modifier that relates to how a particular individual traditionally responds to change. In contrast, the claimed invention includes "...wherein the modifier comprises at least one of a stiffness modifier that relates to how a particular type of organization traditionally responds to change and an individual modifier that relates to how a particular

individual traditionally responds to change.” Claim 18. As such, modifier of the claimed invention is not unspecified as in Guinta, but rather comprises at least one of a stiffness modifier and an individual modifier. For the above reasons, wide variety of factors of Guinta does not teach the modifier of the claimed invention. Accordingly, Applicants request that the rejection be withdrawn.

With respect to dependent claims, Applicants herein incorporate the arguments presented above with respect to the independent claims from which the claims depend. Furthermore, Applicants submit that all dependant claims are allowable based on their own distinct features. Since the cited art does not teach each and every feature of the claimed invention, Applicants respectfully request withdrawal of this rejection.

#### **D. REJECTION OF CLAIMS 1-2 and 8-20 UNDER 35 U.S.C. §103(a)**

With regard to the 35 U.S.C. §103(a) rejection over Guinta in view of Curtis, Applicants assert that the combined references cited by the Office fail to teach or suggest each and every feature of the claimed invention. For example, with respect to independent claims 10 and 32, as argued above with respect to independent claims 1, 15 and 23, Guinta fails to teach or suggest program code configured to receive a set of hierarchy responses to queries prior to implementing the technical change in the organization and program code configured to modify the raw score into a skill score using at least one modifier that relates to a response to change. Additionally, with respect to independent claims 10 and 32 and dependent claim 27, as argued above with respect to independent claim 1 and dependent claim 17, Guinta fails to teach or suggest quantifying the set of responses into a raw score by assigning a value to each baseline response.

Curtis does not cure these deficiencies. Accordingly, Applicant respectfully requests that the Office withdraw its rejection.

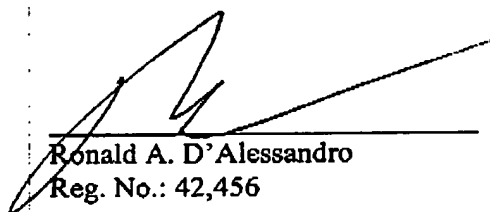
With regard to the Office's other arguments regarding dependent claims, Applicants herein incorporate the arguments presented above with respect to independent claims listed above. In addition, Applicants submit that all dependant claims are allowable based on their own distinct features. However, for brevity, Applicants will forego addressing each of these rejections individually, but reserve the right to do so should it become necessary. Accordingly, Applicants respectfully request that the Office withdraw its rejection.

#### IV. CONCLUSION

In light of the above, Applicants respectfully submit that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the number listed below.

Respectfully submitted,

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